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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,947	01/11/2002	Dean Schaefer	612-07-CIP	7088
22145	7590	04/19/2005	EXAMINER	
KLEIN, O'NEILL & SINGH			HO, UYEN T	
2 PARK PLAZA			ART UNIT	
SUITE 510			PAPER NUMBER	
IRVINE, CA 92614			3731	

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/043,947

Applicant(s)

SCHAEFER ET AL.

Examiner

(Jackie) Tan-Uyen T. Ho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 9-17, 19-34 and 39-41 is/are pending in the application.
- 4a) Of the above claim(s) 4, 10, 11, 19, 22, 24 and 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 9, 12, 14-17, 20, 21, 23, 26, 28-34 and 39-41 is/are rejected.
- 7) ☒ Claim(s) 13, 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date Oct 26, 2004
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species IV (Fig. 15) in the reply filed on 1/28/05 is acknowledged.

Response to Arguments

2. Applicant's arguments filed 10/26/04 have been fully considered but they are not place the claims in condition for allow (see the rejection below).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3, 9,14-17, 20, 21, 23, 28-34, 39-41 are rejected under 35 U.S.C. 102(e) as being anticipated by Nikolchev et al. (6,176,240). Nikolchev et al. disclose a vaso-occlusive device including a plurality of closed loops as claimed (figs. 1 and 2).

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5. Claims 1-3, 9, 14-17, 20, 21, 23, 28-34, 39-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Mariant et al. (5,639,277). Mariant et al. disclose a vaso-occlusive device including a plurality of closed loops as claimed (figs. 1 and 10).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-3, 9, 12, 14-17, 20, 21, 23, 26, 28-34, 39-41 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ritchart et al. (4,994,069). Figure 2C of Ritchart et al. reference discloses a vaso-occlusive device as claimed (col. 4, line 45 to col. 6, line 36). Ritchart et al. also disclose a method of embolizing a vascular site including the steps as claimed (fig. 1, 2c, 7, 8A, col. 8, line 20 to col. 9, line 66). Fig. 5 shows the loops progressively decreasing diameter toward the middle portion of the device. Figure 2C of Ritchart et al. reference inherently shows a helical winding of a wire forming substantially closed loops. Examiner considers that each of the loops in Ritchart et al. reference closes at the area where two portions of the wire are touched (See illustration below).

Furthermore, at the time the invention was made, it would have been an obvious matter of design choice to modify Ritchart et al.'s vaso device to have closed loops (if they are not already closed), since Applicant has not disclosed that having the loops being

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closed solves any stated problem or is for any particular purpose and it appears that the vaso occlusive device would perform equally well with the closed loops or non-closed loops.

8. Claims 1-3, 9, 12, 14-17, 20, 21, 23, 26, 28-34, 39-41 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Jacobsen et al. (5,800,454). Jacobsen et al. disclose a vaso-occlusive device as claimed (Figure 3B). Jacobsen et al. also disclose a method of embolizing a vascular site including the steps as claimed (Figure 1A, col. 2-3). Fig. 3B shows the helical winding wire including a plurality of overlapping portion forming closed loops.

Furthermore, at the time the invention was made, it would have been an obvious matter of design choice to modify Jacobsen et al.'s vaso device to have closed loops (if they are not already closed), since Applicant has not disclosed that having the loops being closed solves any stated problem or is for any particular purpose and it appears that the vaso occlusive device would perform equally well with the closed loops or non-closed loops.

Allowable Subject Matter

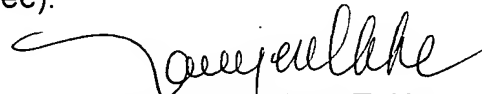
9. Claims 13 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to (Jackie) Tan-Uyen T. Ho whose telephone number is 571-272-4696. The examiner can normally be reached on MULTIFLEX Mon. to Sat..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ANHTUAN NGUYEN can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



(Jackie) Tan-Uyen T. Ho
Patent Examiner
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April 16, 2005